



Paper No. 55

**COPY MAILED**

**MAY 07 2003**

**OFFICE OF PETITIONS**

In re Application of  
Dennis J. DUPRAY  
Application No. 09/176,587  
Filed: October 21, 1998  
Attorney Docket No. 1005-DJD

:  
:  
:  
:  
:  
:

**DECISION  
ON PETITION  
37 CFR 1.137(b)**

This is a decision on the petition filed December 17, 2002, under 37 CFR 1.137(b), to revive the above-identified application.

The petition is **DISMISSED**.

Applicant is given **TWO MONTHS** from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.137(b)". Any extensions of time will be governed by 37 CFR 1.136(a).

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(c).

The instant petition lacks item (1).

The instant application became abandoned for failure to timely submit the Issue Fee required by the Notice of Allowance and Issue Fee Due mailed on July 29, 2002. In particular, petitioner failed to return the issue fee transmittal (Form PTO-85b), or an equivalent thereof, requesting reapplication of the previously paid issue fee, submitted May 29, 2001, toward payment of the issue fee required by the new Notice of Allowance and Issue Fee Due, mailed July 29, 2002. By way of submission of the form PTOL-85b with the instant petition, petitioner now requests that the issue fee submitted May 29, 2001 be applied toward the outstanding issue fee due. However, the record reflects that the issue fee submitted May 29, 2001 was paid in the amount of \$620. Petitioner is advised that at the time of filing the instant petition, the issue fee due was \$640. Therefore, the instant petition cannot be granted at this time because petitioner did not

provide herewith the outstanding \$20 balance of the issue fee required by 37 CFR 1.18(b) or authorization to charge a deposit account therefor.

Further correspondence with respect to this matter should be addressed as follows:

**By mail:** Mail Stop PETITION  
Commissioner for Patents  
Post Office Box 1450  
Alexandria, VA 22313-1450

**By hand:** Crystal Plaza Four, Suite 3C23  
2201 South Clark Place  
Arlington, VA 22202

**By Fax:** (703) 308-6916  
ATTN: Office of Petitions

Inquiries regarding this communication may be directed to the undersigned at (703) 308-3865.



BethAnne Dayoan  
Petitions Examiner  
Office of Petitions  
Office of the Deputy Commissioner  
for Patent Examination Policy